

This record is a partial extract of the original cable. The full text of the original cable is not available.

150121Z Nov 01

2001HANOI02980 - UNCLASSIFIED

UNCLASSIFIED PTQ6878

PAGE 01 HANOI 02980 01 OF 05 150123Z  
ACTION EAP-00

INFO	LOG-00	NP-00	AID-00	CEA-01	CIAE-00	COME-00	CTME-00
	ITCE-00	DOTE-00	SRPP-00	DS-00	EB-00	EXME-00	E-00
	FAAE-00	FBIE-00	UTED-00	VC-00	FRB-00	H-01	TEDE-00
	INR-00	IO-00	ITC-01	LAB-01	L-00	VCE-00	AC-01
	DCP-01	NSAE-00	OIC-02	OMB-01	OPIC-01	PA-00	PC-01
	PM-00	PRS-00	ACE-00	P-00	SP-00	IRM-00	SSO-00
	STR-00	TEST-00	TRSE-00	USIE-00	PMB-00	DSCC-00	PRM-00
	DRL-02	G-00	NFAT-00	SAS-00	/013W		

-----3E5AC8 150124Z /38

FM AMEMBASSY HANOI  
TO SECSTATE WASHDC 4682  
INFO AMCONSUL HO CHI MINH CITY  
NSC WASHDC  
USCINCPAC HONOLULU HI  
SECDEF WASHDC

UNCLAS SECTION 01 OF 05 HANOI 002980

SIPDIS

DEPARTMENT FOR EAP/BCLTV

SECDEF FOR ABLAGG

SENSITIVE

E.O. 12958: N/A

TAGS: [PGOV](#) [PHUM](#) [ECON](#) [VM](#) [DPOL](#)

SUBJECT: THE CONSTITUTIONAL AMENDMENT PROCESS: WHAT'S UP?

REF: A. HANOI 2885 B. HANOI 2914

1. (SBU) SUMMARY: PROPOSED AMENDMENTS TO THE 1992 SRV CONSTITUTION REPRESENT ATTEMPTS TO ENABLE GREATER PARTICIPATION IN ECONOMIC LIFE AND TO ADJUST THE ROLES OF VARIOUS PARTS OF GOVERNMENT, WITH POSSIBLE MORE POWER TO THE NATIONAL ASSEMBLY (NA). EXPECTED APPROVAL OF AT LEAST SOME AMENDMENTS BY THE NA DURING ITS NOVEMBER/DECEMBER SESSION WILL MARK THE NEXT PHASE OF AN ALREADY LENGTHY PROCESS OF SEEKING PUBLIC INPUT AND REACTION. WHILE THE SRV TOUTS THIS AS AN EXERCISE IN DEMOCRACY, IT IS ONE FIRMLY TIED TO THE IDEA OF "DEMOCRATIC CENTRALISM" IN A ONE PARTY STATE. INDEED, THE CPV SEEMS TO BE TRUNCATING THE PROCESS AFTER SOME NA MEMBERS AND CITIZENS APPARENTLY BEGAN TO CALL FOR MORE COMPREHENSIVE CONSTITUTIONAL CHANGES. SEPTTEL WILL PROVIDE AN OVERVIEW OF THE UPCOMING NA SESSION AND IMPLICATIONS OF LIKELY OUTCOMES. END SUMMARY.

WHY CHANGE THE CONSTITUTION?

2. (U) THE OFFICIAL JUSTIFICATION FOR AMENDING THE CONSTITUTION IS TO "STREAMLINE AND IMPROVE THE EFFICIENCY OF THE STATE APPARATUS (NOTE: I.E., ADMINISTRATIVE REFORM, END NOTE) AND ADDRESS URGENT ECONOMIC, CULTURAL, EDUCATIONAL, SCIENTIFIC, AND TECHNOLOGICAL ISSUES." THE NINTH NATIONAL COMMUNIST PARTY CONGRESS FORMALLY IDENTIFIED THESE ISSUES EARLIER THIS YEAR, BUT SEVERAL AMENDMENTS REPORTEDLY HAD BEEN UNDER CONSIDERATION FOR A NUMBER OF YEARS. THE CENTRAL  
UNCLASSIFIED

PAGE 03 HANOI 02980 01 OF 05 150123Z  
COMMITTEE REAFFIRMED THE CPV'S VIEW OF THE AMENDMENTS IN AN ANNOUNCEMENT AT THE CONCLUSION OF ITS FOURTH PLENUM ON NOVEMBER 13, STRESSING THAT "ONLY ISSUES CONSIDERED TO BE URGENT AND UNANIMOUSLY AGREED UPON WILL BE AMENDED AND SUPPLEMENTED."

3. (SBU) THE AMENDMENT PROCESS ITSELF (SEE PARAS 19-22 FOR DESCRIPTION) REPORTEDLY GENERATED OVER TEN THOUSAND PUBLIC COMMENTS. AMONG THEM WERE CALLS FROM NA MEMBERS AND OTHERS FOR COMPREHENSIVE CONSTITUTIONAL CHANGE. SOME COMMENTS, ACCORDING TO TRAN NHUNG, AN EDITOR OF THE PEOPLE'S ARMY NEWSPAPER WHO SPOKE WITH POLOFF ON OCTOBER 17, WERE SHARPLY CRITICAL, EVEN CLAIMING THAT THE PROPOSED AMENDMENTS WERE "A STEP BACKWARD FROM THE 1946 CONSTITUTION." ONE PURPOSE OF THE AMENDMENTS AND OF THE AMENDMENT PROCESS ITSELF IS TO ALLOW THE SRV TO DEMONSTRATE THAT IT CAN MANAGE "DEMOCRACY" IN A ONE PARTY STATE, ACCORDING TO CHRISTINE JOHANSSON, A SWEDISH DIPLOMAT WITH WHOM POLOFF SPOKE ON OCTOBER 31. THE AMENDMENT PROCESS, SHE SAID, SERVES AS A WAY TO RE-LINK THE PARTY WITH "THE PEOPLE." JOHANSSON ALSO SUPERVISES A SWEDISH ODA PROJECT TO HELP THE NA IMPROVE ITS OWN

SUPERVISORY FUNCTIONS.

14. (U) OVER THE PAST SEVERAL MONTHS, MANY OBSERVERS HAD PREDICTED THAT THE UPCOMING SESSION OF THE TENTH NA WOULD DISCUSS -- BUT NOT RATIFY -- THE AMENDMENTS. ACCORDING TO THEIR ANALYSES, THE NEW NA TO BE ELECTED IN MID-2002 WOULD FORMALLY ADOPT THE AMENDMENTS. HOWEVER, ON NOVEMBER 13, NGO ANH DUNG, VICE-CHAIRMAN OF THE NA FOREIGN AFFAIRS COMMITTEE, IN A MEETING WITH POL/C AND POLOFF, CLAIMED THAT THE NA'S AD HHOC STEERING COMMITTEE ON CONSTITUTIONAL

UNCLASSIFIED

PAGE 04 HANOI 02980 01 OF 05 150123Z  
AMENDMENTS (CHAIRMAN BY NGUYEN VAN AN, CONCURRENTLY POLITBURO MEMBER, NA CHAIRMAN, AND NA STANDING COMMITTEE CHAIRMAN) HAD REACHED CONSENSUS WITH NA DELEGATES ON FOCUSING ONLY ON URGENT ISSUES THAT NEEDED UPDATING FROM THE 1992 CONSTITUTION. HIS REMARKS REFLECTED THE LANGUAGE SIMILAR USED IN THAT DAY'S CENTRAL COMMITTEE ANNOUNCEMENT REGARDING ITS VIEWS ON CONSTITUTIONAL AMENDMENTS. DUNG NOTED THAT THE AMENDMENT PROCESS COULD CONTINUE NEXT YEAR OR OVER SEVERAL YEARS, BUT THAT, LIKE THE MUCH OLDER US CONSTITUTION, TOO MANY AMENDMENTS WERE PROBABLY NOT NECESSARY.

PAST CHANGES

15. (SBU) SOME OBSERVERS HAVE NOTED A PATTERN OF AMENDING THE CONSTITUTION ROUGHLY EVERY TEN YEARS. TRAN NHUNG, OF THE PEOPLE'S ARMY NEWSPAPER, AND HISTORIAN HUU NGOC, IN A SEPARATE CONVERSATION WITH POLOFF ON OCTOBER 19, EMPHASIZED THE HISTORICAL CONTEXT OF EACH CONSTITUTION CHANGE. BOTH SAID THAT THE 1959 CONSTITUTION HAD REFLECTED LESSONS LEARNED BY AUTHORITIES MORE USED TO FIGHTING A WAR THAN RUNNING A COUNTRY. THAT LONG AND DETAILED SOVIET-STYLE CONSTITUTION WAS BOTH DIFFICULT TO IMPLEMENT AND TO CHANGE, ACCORDING TO NGUYEN SI DUNG, DIRECTOR THE NA'S CENTER FOR INFORMATION, LIBRARY, AND RESEARCH SERVICES, WHO MET WITH POLOFF ON OCTOBER 5. EACH SUBSEQUENT CONSTITUTION HAS BEEN AN EVOLUTION OF THE 1959 DOCUMENT, HE CLAIMED.

16. (SBU) HISTORIAN NGOC RECALLED THAT THEN-HOSTILE RELATIONS WITH CHINA STIMULATED THE 1980 CONSTITUTION'S ANTI-CHINESE PREAMBLE LANGUAGE. NGOC AND NHUNG IDENTIFIED THE EARLY PHASES OF "DOI MOI" WITH THE 1992 CONSTITUTION. HUU NGOC SAID THAT THE 1992 VERSION CAME AT A TIME WHEN VIETNAM WAS TRYING TO COME OUT OF A LONG ECONOMIC CRISIS AND REPRESENTED VIETNAM'S ATTEMPT TO FIGURE OUT HOW TO CATCH UP WITH ITS NEIGHBORS. WHILE HE SAID THAT THE 1992 AMENDMENTS TO THE CONSTITUTION FOCUSED ON THE STATE'S ECONOMIC SYSTEM, HE BLAMED NATURAL DISASTERS AND FOREIGN INVASIONS, RATHER THAN THE PREVIOUS SYSTEM ITSELF, FOR VIETNAM'S EARLIER ECONOMIC WOES.

WHY THESE CHANGES?

17. (SBU) NGO BA THANH, A NON-PARTY NA MEMBER ON THE AD HOC STANDING COMMITTEE ON CONSTITUTIONAL AMENDMENTS WHO SERVED AS WELL ON THE 1980 AND 1992 AMENDMENT COMMITTEES AND WHO MET WITH POL/C AND POLOFF ON OCTOBER 11, STRESSED THAT NEW AMENDMENTS WERE NEEDED TO "IMPROVE THE TRANSPARENCY AND EFFICIENCY IN THE STATE APPARATUS" IN ORDER TO BUILD THE NATION. EDITOR TRAN NHUNG HIGHLIGHTED THE NEED NOWADAYS FOR MORE AMENDMENTS RELATED TO THE ECONOMY, PARTICULARLY REGARDING THE DEVELOPMENT OF A MARKET ECONOMY AND INTEGRATION WITH THE GLOBAL ECONOMY. NHUNG IDENTIFIED AN OVERALL THEME OF MOVEMENT AWAY FROM A COMMAND ECONOMY, AND

UNCLASSIFIED

PAGE 03 HANOI 02980 02 OF 05 150124Z  
MORE GENERALLY AWAY FROM "THE STATE COMMANDING AND THE PEOPLE DOING." INSTEAD, HE SAID, THE STATE MUST INCREASINGLY "ENCOURAGE" THE PEOPLE TO UNDERTAKE MORE RESPONSIBILITY AND INITIATIVE. NHUNG LINKED AMENDMENTS ON FORMS OF OWNERSHIP, EDUCATION, AND THE RULE OF LAW TO THIS THEME. THESE ARE NEEDED SO THAT VIETNAM CAN OPERATE EFFECTIVELY IN THE GLOBAL MARKET AND CAN ATTRACT MORE FOREIGN INVESTORS, HE SAID.

18. (SBU) HUU NGOC HIGHLIGHTED THE VALUE OF PROPOSED AMENDMENTS IN VIETNAM'S EFFORTS TO BALANCE GLOBALIZATION AND ECONOMIC EXPANSION WITH PRESERVATION OF ITS CULTURAL AND SOCIAL IDENTITY. HE CITED AMENDMENTS REGARDING BUILDING A MORE EFFECTIVE EDUCATION SYSTEM AS THE MOST IMPORTANT, NOT ONLY TO ENABLE PARTICIPATION IN THE GLOBAL ECONOMY, BUT ALSO TO MAINTAIN VIETNAMESE DISTINCTIVENESS. HE SAID THAT "DOI MOI" HAD ALREADY ENCOURAGED COMPETITION, WHICH HAD BEEN ABSENT UNDER SOCIALISM. BUT THIS HAD LED TO INDIVIDUALISM AND MATERIALISM, TRAITS HE CHARACTERIZED AS NEGATIVE AND "WESTERN" IN OPPOSITION TO TRADITIONAL COLLECTIVE VALUES. THE NA'S DUNG NOTED THAT THE NATION AND IN PARTICULAR ITS ECONOMY HAD CHANGED FROM THE EARLY DAYS OF "DOI MOI" REFLECTED IN THE 1992 CONSTITUTION, AND ADMITTED THAT SUBSEQUENT PROBLEMS OF CORRUPTION AND BUREAUCRATISM SPARKED SOME OF THE CURRENT PROPOSED CHANGES.

WHAT IS AT STAKE?  
-----

19. (SBU) OPINIONS VARY WIDELY OVER WHICH AMENDMENTS ARE MOST IMPORTANT AND OVER WHAT THEIR POTENTIAL EFFECTS WOULD  
UNCLASSIFIED

PAGE 04 HANOI 02980 02 OF 05 150124Z  
BE. WHILE MOST PROPOSED AMENDMENTS RELATE TO THE MODIFICATIONS IN THE "STATE APPARATUS," ECONOMIC-RELATED AMENDMENTS SEEMED HAVE ATTRACTED MORE INTEREST. PROPOSED RULE OF LAW LANGUAGE ALSO STIMULATED MUCH COMMENT. WITHIN THE "STATE APPARATUS," THE PROVINCIAL PEOPLE'S COUNCILS, THE NA, AND THE PRIME MINISTER WOULD ALL APPEAR POTENTIALLY TO GAIN MORE POWER FROM PROPOSED AMENDMENTS. HUU NGOC SAID THAT THE CONSTITUTIONAL AMENDMENTS WERE NOT SOMETHING THAT "THE MASSES OF THE PEOPLE, THE FARMERS," WERE INTERESTED IN, BUT HAD AT LEAST ATTRACTED THE ATTENTION AND ENGAGEMENT OF THE MIDDLE STRATA AND INTELLECTUALS. MS. JOHANSSON NOTED THAT THE DISCUSSION PROCESS HAD GENERATED MUCH PUBLIC INTEREST AND REVEALED DIFFERENCES OF OPINION AND APPROACH BETWEEN ACADEMICS AND ORDINARY CITIZENS. PROVINCIAL OFFICIALS WITH WHOM POL/C MET ON OCTOBER 25-NOVEMBER 2 TRAVELS BETWEEN HO CHI MINH CITY AND HANOI UNIFORMLY CLAIMED CONSIDERABLE LOCAL INTEREST IN THE AMENDMENT PROCESS, BUT WERE UNWILLING OR UNABLE TO CITE EXAMPLES OF SPECIFIC AMENDMENTS OF CONCERN FOR THEIR RESIDENTS (REF B).

110. (SBU) TRAN NHUNG CITED ECONOMIC ACTORS AS THE BIGGEST BENEFICIARIES OF SOME OF THE PROPOSED AMENDMENTS. REFERRING TO PROPOSED CHANGES TO ARTICLES 16 AND 21 AND TO A LESSER EXTENT TO ARTICLES 15, 19, AND 24, HE SAID THAT THESE AMENDMENTS WOULD MEAN THAT NEW CONSTITUTION WOULD RECOGNIZE "ALL" FORMS OF OWNERSHIP AND ALLOW ALL FORMS TO COMPETE ON AN EQUAL BASIS. NGUYEN SI DUNG NOTED THE CHANGE FROM "STATE-RUN ECONOMY" TO "STATE (OR NATIONAL) ECONOMY" IN ARTICLE 16 AS THE MOST SIGNIFICANT ECONOMIC AMENDMENT, BECAUSE THIS WOULD SIGNAL A REDUCTION OF GOVERNMENT CONTROL OVER THE ECONOMY. NHUNG SAID THAT THESE CHANGES WOULD BE OF GREAT BENEFIT TO BUSINESS OWNERS, BUT WOULD PUT MORE PRESSURE ON STATE-OWNED ENTERPRISES (SOE'S). HE INDICATED THAT ADAPTABLE SOE'S COULD BE MAJOR BENEFICIARIES, WHILE THEIR INFLEXIBLE COUNTERPARTS WOULD BE THE BIGGEST LOSERS. NONETHELESS, NHUNG SAID THAT THESE AMENDMENTS MOST DIRECTLY ANSWERED THE CONCERNS OF COMMON PEOPLE. NGO BA THANH SEPARATELY AGREED, COMMENTING THAT "THE PEOPLE ARE NOT MUCH INTERESTED IN THE STATE APPARATUS. THEY ARE JUST INTERESTED IN THEIR RIGHTS TO DO BUSINESS."

111. (SBU) OF ALL OF THE PROPOSED AMENDMENTS, "RULE OF LAW" CHANGES TO ARTICLES 2 AND 12 PERHAPS GENERATED THE HIGHEST LEVEL OF SCHOLARLY DEBATE. ARTICLE 2'S PROPOSED AMENDMENT WOULD SPECIFY THAT VIETNAM IS A "LAW GOVERNED, SOCIALIST" STATE. THE PROPOSED AMENDMENT TO ARTICLE 12 WOULD ELIMINATE "THE STATE ADMINISTERS SOCIETY BY MEANS OF LAW, UNCEASINGLY STRENGTHENING THE SOCIALIST LEGAL SYSTEM" IN FAVOR OF "BUILDING THE LAW GOVERNED SOCIALIST STATE OF VIETNAM IS THE RESPONSIBILITY OF EVERY ORGAN, ORGANIZATION AND CITIZEN." BUT, ACCORDING TO NGUYEN SI DUNG, ADOPTION OF SUCH NEW RULE OF LAW LANGUAGE WOULD BE ONLY A FORMAL DECLARATION, WITHOUT PRACTICAL EFFECT.

112. (SBU) NGUYEN SI DUNG CLAIMED THAT HO CHI MINH HAD  
UNCLASSIFIED

PAGE 03 HANOI 02980 03 OF 05 150124Z  
ORIGINALLY EXPRESSED THE IDEAL BEHIND THESE AMENDMENTS IN TERMS OF DESCRIBING VIETNAM AS A "STATE OF LAW" IN THE VIETNAMESE DECLARATION OF INDEPENDENCE. HE ADDED, HOWEVER, THAT THERE IS NO CONSENSUS YET THAT VIETNAM IS READY TO PUT THE LAW ABOVE THE STATE; IT IS STILL "RULED BY LAW," AN IMPORTANT DISTINCTION. SOME OBSERVERS COMMENTED THAT CURRENT WORDING OF ARTICLE 12 MORE ACCURATELY REFLECTS THE RELATIONSHIP BETWEEN THE STATE AND THE LAW. NGO BA THANH, OF THE AMENDMENT DRAFTING COMMITTEE, SAID THAT THE MAIN PURPOSE OF THESE AMENDMENTS IS TO "RAISE THE SENSE OF LAW COMPLIANCE FOR ALL PEOPLE." SWEDEN'S JOHANSSON NOTED THAT THE PROPOSED NEW LANGUAGE MIGHT BOIL DOWN TO ASSERTING CENTRAL CONTROL IN A COUNTRY WHERE LOCAL DECREES OFTEN CONTRADICT THE CONSTITUTION.

113. (SBU) A PROPOSAL TO ELIMINATE THE REFERENCE TO "COMPULSORY, FREE EDUCATION" FROM ARTICLE 59 REPORTEDLY DREW WIDESPREAD PUBLIC CRITICISM. (NOTE: EDUCATION IS ONLY COMPULSORY AND FREE THROUGH ELEMENTARY SCHOOL --5TH GRADE -- AT PRESENT. END NOTE) NGUYEN SI DUNG CLAIMED THAT THIS AMENDMENT HAD BEEN INTRODUCED AT THE BEHEST OF THOSE WHO ARE WEALTHY ENOUGH TO PAY FOR PRIVATE EDUCATION. CLAIMING THAT IT WAS THE MOST UNPOPULAR NEW AMENDMENT, HE PREDICTED THAT IT WOULD NOT PASS. TRAN NHUNG OF THE PEOPLE'S ARMY NEWSPAPER OPINED THAT THIS AMENDMENT WOULD HAVE TWO POSITIVE EFFECTS: 1) TO MAKE IT POSSIBLE FOR "SOCIAL GROUPS AND INDIVIDUALS TO CONTRIBUTE TO PRIMARY EDUCATION" BY ENCOURAGING MORE PRIVATE SCHOOLS (ALREADY LEGAL BUT STILL RELATIVELY FEW); AND, 2) TO ALLOW GOVERNMENT EDUCATION

BUDGETS TO BE TARGETED TO HELP THE NEEDIER RURAL AND UPLAND  
AREAS. PRESS REPORTS HAVE NOTED THAT MANY CITIZENS OPPOSED  
UNCLASSIFIED

PAGE 04 HANOI 02980 03 OF 05 150124Z  
THIS AMENDMENT, FEARING THAT IT WOULD MEAN THE END OF FREE  
PRIMARY EDUCATION. NHUNG INSISTED THAT THIS WOULD NOT  
HAPPEN, HOWEVER.

THE STATE APPARATUS  
-----

14. (U) AMENDMENTS CONCERNING ORGANIZATION OF THE "STATE  
APPARATUS" (ADMINISTRATIVE REFORM) HAVE ATTRACTED RELATIVELY  
LITTLE PUBLIC ATTENTION, BUT A NUMBER OF PEOPLE WHO SPOKE TO  
POLOFF IDENTIFIED THESE AS AMONG THE MOST IMPORTANT PROPOSED  
CHANGES. THE CENTRAL COMMITTEE EMPHASIZED THESE AMENDMENTS  
IN ITS NOVEMBER 13 ANNOUNCEMENT. THE MOST IMPORTANT ONES,  
ACCORDING TO NGUYEN SI DUNG AND MS. THANH, MANDATE MORE  
"DECENTRALIZATION" OF POWER FROM THE CENTER TO THE  
PROVINCES. OTHER PROPOSED AMENDMENTS INCLUDE MEASURES  
GIVING MORE POWER TO THE NA AND THE PRIME MINISTER.

15. (SBU) ONE EXAMPLE OF "DECENTRALIZATION" WOULD BE  
PROPOSED AMENDMENTS TO INCREASE THE AUTHORITY OF PROVINCIAL  
PEOPLE'S COUNCILS BY GIVING THEM MORE BUDGET APPROPRIATION  
AUTHORITY. AN AMENDMENT TO ARTICLE 84 WOULD ACCOMPLISH THIS  
BY SUBSTITUTING "CENTRAL" (TRUNG UONG) FOR "STATE" (NHA  
NUOC) IN REFERENCE TO THE NATIONAL ASSEMBLY'S BUDGET  
APPROPRIATION DUTIES. IN THIS CONTEXT, "CENTRAL" MEANS THE  
NATIONAL-LEVEL GOVERNMENT ONLY, WHILE "STATE" REFERS TO  
GOVERNMENT AT ALL LEVELS. ACCORDING TO NGUYEN SI DUNG, THIS  
WOULD CHANGE THE CURRENT PROVINCIAL FUNDING MECHANISM IN  
WHICH THE PROVINCES RECEIVE EARMARKED FUNDING FROM THE NA  
BASED ON REQUESTS PASSED THROUGH THE FINANCE MINISTRY. IN  
THE FUTURE, PROVINCES WOULD THEN BE ABLE TO ALLOCATE OR  
REALLOCATE BLOCK APPROPRIATIONS FROM THE NA. HE ADDED THAT  
CENTRALIZED DECISION-MAKING HAD BEEN GOOD DURING WARTIME,  
BUT MORE "DECENTRALIZATION" WOULD BE BETTER FOR PEACE. THE  
POINT OF THIS AMENDMENT, ACCORDING TO BOTH MS. THANH AND  
NGUYEN SI DUNG, WOULD BE TO ENCOURAGE PROVINCIAL GOVERNMENTS  
TO TAKE MORE INITIATIVE AND RESPONSIBILITY. (REF B REPORTED  
ON THE DIFFICULTIES AND AMBIGUITIES OF "DECENTRALIZATION,"  
PARTICULARLY THAT PROVINCIAL PEOPLE'S COUNCILS DO NOT  
NECESSARILY HAVE THE CAPACITY TO UNDERTAKE ADDITIONAL  
FINANCIAL RESPONSIBILITY.) NHUNG ADMITTED THAT NO ONE KNOWS  
EXACTLY HOW THIS AMENDMENT COULD BE IMPLEMENTED, A PROBLEM  
NGUYEN SI DUNG ALSO RAISED.

16. (SBU) THE NATIONAL ASSEMBLY WOULD POTENTIALLY GAIN  
MORE POWER THROUGH OTHER PROPOSED AMENDMENTS TO ARTICLE 84,  
MARKING A CONTINUATION OF A GRADUAL TREND TOWARDS A LARGER  
FORMAL ROLE FOR THE NATIONAL ASSEMBLY. ONE OF THE PROPOSALS  
WOULD GIVE THE NA THE RIGHT TO INITIATE NO-CONFIDENCE VOTES  
ON OFFICIALS INCLUDING THE STATE PRESIDENT, THE PRIME  
MINISTER, CABINET MINISTERS, THE PRESIDENT OF THE SUPREME  
PEOPLE'S COURT, AND THE CHIEF PROCURATOR OF THE SUPREME  
PEOPLE'S PROCURACY. NGUYEN SI DUNG CLAIMED THAT THIS IN  
EFFECT WAS ONLY A STEP AWAY FROM A SYSTEM OF CHECKS AND  
BALANCES, SINCE THE NA WOULD HAVE MORE EXPLICIT AUTHORITY  
UNCLASSIFIED

PAGE 03 HANOI 02980 04 OF 05 150124Z  
OVER THE JUDICIARY BRANCH. HE WORRIED THAT THESE AMENDMENTS  
WOULD FURTHER UNDERMINE ALREADY WEAK JUDICIAL INDEPENDENCE,  
HOWEVER. OTHER OBSERVERS HAVE COMMENTED THAT THE AMENDMENTS  
ARE SUPERFLUOUS SINCE THE 1992 CONSTITUTION'S CHAPTER SIX  
(WHICH INCLUDES ARTICLE 84 OF THE CURRENT CONSTITUTION)  
ALREADY GIVES THE NA EXPLICIT AUTHORITY TO "ELECT, RELEASE  
FROM DUTY, REMOVE FROM OFFICE" THESE SENIOR STATE OFFICIALS.

17. (SBU) MS. THANH SEPARATELY SAID THAT SHE REGARDED THE  
AMENDMENTS ON THE NA AS A "DEVELOPMENT OF CENTRALIST  
DEMOCRACY, BECAUSE THE NA, REPRESENTING GEOGRAPHICAL  
DISTRICTS AND SOCIAL SECTORS, SHOULD BE ABOVE THE EXECUTIVE  
AND JUDICIARY." ACCORDING TO NGUYEN SI DUNG, THE INTENT OF  
THESE AMENDMENTS IS TO INCREASE THE ACCOUNTABILITY OF  
GOVERNMENT OFFICIALS. OTHER AMENDMENTS WOULD GIVE THE NA  
STANDING COMMITTEE MORE POWER TO ACT BETWEEN FULL ASSEMBLY  
SESSIONS, BUT THESE PROPOSALS SEEM TO BE UNPOPULAR WITH MANY  
ASSEMBLY MEMBERS.

18. (SBU) SOME PROPOSED AMENDMENTS WOULD ALSO GIVE THE  
PRIME MINISTER MORE POWER, ESPECIALLY OVER LOCAL  
GOVERNMENTS, THROUGH STRENGTHENED ABILITY TO APPOINT,  
DISMISS, AND TRANSFER PROVINCIAL PEOPLE'S COMMITTEE  
CHAIRPERSONS. THE EXECUTIVES AT LOWER ECHELONS WOULD ALSO  
GET CORRESPONDING AUTHORITY OVER THEIR RESPECTIVE SUB-  
DIVISIONS. MS. THANH AND NGUYEN SI DUNG EXPLAINED THAT THIS  
WAS SUPPOSED TO MAKE PROVINCIAL EXECUTIVES MORE ACCOUNTABLE  
TO THE CENTRAL GOVERNMENT. NGUYEN SI DUNG COMMENTED THAT  
THIS COULD ALSO MAKE PROVINCIAL PEOPLE'S COMMITTEE CHAIRMEN  
MORE BEHOLDEN TO THE PRIME MINISTER AND LESS RESPONSIVE TO  
LOCAL NEEDS. HOWEVER, NHUNG SAID THAT THIS AMENDMENT WOULD  
UNCLASSIFIED

PAGE 04 HANOI 02980 04 OF 05 150124Z  
"ENHANCE STATE MANAGEMENT" BY ENCOURAGING LOCAL EXECUTIVES TO BE MORE ANSWERABLE TO THE CENTER FOR THEIR ACTIONS. IT WOULD MAKE POSSIBLE, HE SAID, "PUNISHMENT AND CORRECTION" FOR MISTAKES BY MOVING AWAY FROM A COLLECTIVE LEADERSHIP SYSTEM WHICH OBSCURES RESPONSIBILITY. OTHER PROPOSED AMENDMENTS WOULD REPLACE THE TERM "STATE OFFICIAL" WITH "PUBLIC OFFICIAL" THROUGHOUT THE CONSTITUTION. NHUNG SAID THAT THESE CHANGES MAKE IT EASIER FOR THE PRIME MINISTER TO EXERCISE AUTHORITY OVER THE GOVERNMENT. OTHER COMMENTATORS HAVE NOTED THAT THE PROPOSED DESIGNATION MAKES CLEAR THAT OFFICIALS SERVE "THE PEOPLE" DIRECTLY RATHER THAN WORKING ONLY FOR THE STATE.

THE AMENDMENT PROCESS

19. (U) AFTER THE NINTH PARTY CONGRESS CONCLUDED, THE AD HOC STEERING COMMITTEE ON CONSTITUTIONAL AMENDMENTS CHAIRED BY NGUYEN VAN AN DRAFTED THE PROPOSED AMENDMENTS, PUBLICIZED THEM, AND INVITED PUBLIC COMMENT FROM AUGUST 16 TO SEPTEMBER 30. THE AD HOC COMMITTEE CONDUCTED MEETINGS WITH VARIOUS POLITICAL AND SOCIAL ORGANIZATIONS TO DISCUSS THE AMENDMENTS. THE PRESS COVERED NEGATIVE, AS WELL AS POSITIVE, REACTIONS BY COMMON CITIZENS. NA STAFF THEN SUMMARIZED THE COMMENTS IN A REPORT THAT THE AD HOC COMMITTEE REVIEWED FROM OCTOBER 8 TO 10.

20. (SBU) THE PARTY CENTRAL COMMITTEE THEN REVIEWED THE AMENDMENTS AND COMMENTS DURING ITS NOVEMBER 5-13 PLENUM. AS NOTED ABOVE, IT THEN CLEARLY INDICATED THAT IT WANTS TO LIMIT CONSIDERATION TO THE ISSUES IDENTIFIED AT THE NINTH PARTY CONGRESS, LIMITING THE SCOPE FOR DEBATE IN THE NA. MS. THANH HAD EARLIER PREDICTED THAT ABOUT HALF OF THE NEXT SESSION OF THE TENTH NA WOULD BE SPENT ON CONSTITUTIONAL AMENDMENTS, BUT IT IS NO LONGER CERTAIN THIS WILL BE TRUE. THIS NA SESSION WILL ALSO TAKE UP THE BTA, CHANGES TO THREE LAWS, AND THE BUDGET.

21. (SBU) ACCORDING TO TRAN NHUNG, THE PROCESS IS BROADLY SIMILAR TO THE PROCESSES THAT LED TO THE 1980 AND 1992 CONSTITUTIONS, BUT IS MORE OPEN AND INVOLVES GREATER PUBLIC PARTICIPATION. HE NOTED THAT A REPORT ON THE PUBLIC COMMENTS WOULD BE PUBLISHED, UNLIKE PREVIOUSLY, AND INDICATED THAT IT WOULD PROBABLY ACCOMPANY THE REPORT OF THE AD HOC COMMITTEE ON CONSTITUTIONAL AMENDMENTS TO THE NA STANDING COMMITTEE. HE CLAIMED THAT THE SCOPE FOR PUBLIC COMMENT WAS LARGER THAN BEFORE, WITH MORE OPPORTUNITIES FOR PUBLIC COMMENT.

22. (SBU) SWEDEN'S JOHANSSON CHARACTERIZED THE PROCESS AS A "CONTROLLED DEBATE." SHE SAID THAT IT ALLOWED MORE INTERNAL CONSULTATION AND FEATURED MORE USE OF THE PRESS AND MASS ORGANIZATIONS THAN BEFORE. THIS REFLECTED MORE ATTENTION TO "DEMOCRACY" IN A ONE-PARTY SYSTEM, SHE OPINED. SHE ADDED THAT THE ONGOING PROCESS AT LEAST HELPED TO  
UNCLASSIFIED

PAGE 03 HANOI 02980 05 OF 05 150125Z  
STIMULATE MORE DEBATE ABOUT RIGHTS AND THE RIGHT TO COMPLAIN THAN WOULD HAVE OCCURRED EVEN TWO YEARS AGO. (NOTE: ONE COMPONENT OF THE PROJECT JOHANSSON MANAGES INCLUDES FAMILIARIZING THE NATIONAL ASSEMBLY WITH THE SWEDISH GOVERNMENT'S OMBUDSMAN. SHE SAID THAT WHILE THE NATIONAL ASSEMBLY FOUND THE IDEA INTRIGUING, SHE DID NOT EXPECT THEM TO CREATE AN OMBUDSMAN ANY TIME SOON. END NOTE.) SHE ASSESSED THAT THE CONSTITUTIONAL AMENDMENT PROCESS REFLECTED THAT PARTY AND NA WORK HAD BECOME MORE OPEN, AT LEAST WITHIN THE BOUNDARIES OF "DEMOCRATIC CENTRALISM."

EXPECTED OUTCOMES

23. (U) OPINIONS DIFFER OVER HOW MUCH THE AMENDMENTS MAY CHANGE FROM THEIR ORIGINAL FORM TO WHATEVER THE NA ADOPTS, AS WELL AS HOW MANY AMENDMENTS WILL MAKE IT THROUGH THE NA APPROVAL PROCESS. BOTH THE NOVEMBER 13 CENTRAL COMMITTEE ANNOUNCEMENT AND NGO ANH DUNG'S COMMENTS SUGGESTED THAT THERE WILL BE LITTLE OR NOTHING IN THE WAY OF ADDITIONS TO THE PROPOSED AMENDMENTS DURING NA CONSIDERATION, APART FROM SOME POSSIBLE DELETIONS OR MINOR CHANGES. NGO BA THANH HAD SAID THAT THERE WOULD BE NO CHANGES BECAUSE "ALL" OF THE AMENDMENTS ARE "NECESSARY" FOR VIETNAM'S PROGRESS IN THE 21ST CENTURY. NGUYEN SI DUNG PREDICTED THAT SOME OF THE MOST UNPOPULAR AMENDMENTS WOULD NOT PASS, ESPECIALLY REGARDING EDUCATION. TRAN NHUNG HAD FORECASTED "HARD DISCUSSIONS" DURING THE UPCOMING NA SESSION, GIVEN THE EXPECTED UNFAVORABLE REACTIONS FROM SOME NA MEMBERS.

COMMENT

UNCLASSIFIED

PAGE 04 HANOI 02980 05 OF 05 150125Z

24. (SBU) MUCH OF THIS AMENDMENT EXERCISE SEEMS DESIGNED

PRIMARILY TO CREATE A SENSE OF PUBLIC EMPOWERMENT AND/OR TO VEST "THE PEOPLE" WITH A SENSE OF GREATER PARTICIPATION IN THE POLITICAL SYSTEM. MANY OF THE PROPOSED AMENDMENTS ARE AT BEST SYMBOLIC, LIKE THE SUBSTITUTION OF "PUBLIC" FOR "STATE" OFFICIAL, BUT AT LEAST REFLECT A WELCOME RECOGNITION OF A GROWING CIVIL SOCIETY, INSTEAD OF A PURELY PARTY/STATE-LED NATION. IT IS NOT CLEAR, HOWEVER, THAT THE SRV HAS SUCCEEDED IN ENGAGING THE GENUINE ATTENTION OF ITS CITIZENS IN THIS PROCESS, HOWEVER, OR THAT THIS PROCESS WOULD HAVE ANY EFFECT ON MITIGATING PERCEPTIONS ABOUT ARBITRARY OFFICIAL DECISION-MAKING OR WIDESPREAD CONCERNS ABOUT CORRUPTION BY PARTY AND STATE OFFICIALS. AS MUCH AS THE SRV ATTEMPTS TO PORTRAY THE CONSTITUTIONAL AMENDMENT PROCESS AS "DEMOCRATIC," IT WOULD BE A GREAT LEAP TO SAY THAT ITS FORM OR CONTENT REFLECT ANY TRULY GRASSROOTS INITIATIVE, PARTICULARLY AFTER THE CENTRAL COMMITTEE MADE CLEAR IT SUPPORTED A FOCUSED RATHER THAN COMPREHENSIVE DEBATE ON CONSTITUTIONAL AMENDMENTS.  
PORTER

UNCLASSIFIED